

Practitioner's Docket No.

END920030054US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Vyacheslav Barsuk

Application No.: 10 / 736,429

Group No.: 2116

Filed: 12/15/2003

Examiner: Michael J. Brown

For: METHOD, APPARATUS AND PROGRAM STORAGE DEVICE FOR PROVIDING REMOTE POWER RESET AT A REMOTE SERVER THROUGH A NETWORK CONNECTION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES
OR IN A NAFTA OR WTO MEMBER COUNTRY
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. § 1.131)**

NOTE: 37 C.F.R. § 1.131 Affidavit or declaration of prior invention.

(a) When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. The effective date of a U.S. patent, U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. 102(e). Prior invention may not be established under this section in any country other than the United States, a NAFTA country, or a WTO member country. Prior invention may not be established under this section before December 8, 1993, in a NAFTA country other than the United States, or before January 1, 1996, in a WTO member country other than a NAFTA country. Prior invention may not be established under this section if either:

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

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I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

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* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—37 C.F.R. § 1.131 [9-32]—page 1 of 5)

(2) The rejection is based upon a statutory bar.

PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention of this application in
- ☒ the United States
 - ☐ the NAFTA country _____ (name of country)
 - ☐ the WIPO country _____ (name of country)
- at a date prior to June 30, 2003, that is the effective date of the prior art
- ☐ publication _____
 - ☐ patent _____
 - ☒ patent publication US 2004/0267918 A1
 - ☐ other _____

that was cited by the

- ☒ examiner.
- ☐ applicant.

NOTE: 37 C.F.R. § 1.131 is not applicable to a rejection based on a U.S. patent that CLAIMS the rejected invention.

2. The person making this declaration is (are):
- ☒ the inventor(s).
 - ☐ only some of the joint inventor(s) (and a suitable excuse is attached for failure of the omitted joint inventor(s) to sign)
 - ☐ the party in interest (and a suitable explanation as why it is not possible to produce the declaration of the inventor(s) is attached)

FACTS AND DOCUMENTARY EVIDENCE

NOTE: "The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence satisfactorily explained." 37 C.F.R. § 1.131(b).

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—37 C.F.R. § 1.131 [9-32]—page 2 of 5)

"I conceived and reduced to practice the invention, as currently claimed, by March 2003. This is evidenced by invention disclosure END8-2003-0065 submitted by me on May 7, 2003, the source code listing for "res.c" (implemented at a calling computer), the source code listing for "rescl.c" (implemented at the remote computer which is called by the calling computer), and the dir list.txt directory (which indicates last date of update of "res.c" and "rescl.c" source code programs). I recently added comments to the res.c and rescl.c source code for explanatory purposes, and these comments accurately reflect the function of the respectively steps in the source code."

their conception) a time just prior to the date of the reference, up to the:

- ☒ actual reduction to practice.
☐ filing of this application.

TIME OF PRESENTATION OF THE DECLARATION

(complete (a), (b) or (c))

- (a) ☒ This declaration is submitted prior to final rejection.
(b) ☐ This declaration is submitted with the first response after final rejection, and is for the purpose of overcoming a new ground of rejection or requirement made in the final rejection.
(c) ☐ This declaration is submitted after final rejection. A showing under 37 C.F.R. § 1.116(b) is submitted herewith.

DECLARATION

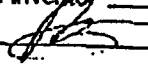
6. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—37 C.F.R. § 1.131 [9-32]—page 4 of 5)

SIGNATURE(S)

7. (complete A or B below)

A. Inventor(s)Full name of sole or first inventor Vyacheslav BarsukInventor's signature Date 11/16/06 Country of Citizenship UkraineResidence 2450 Airport Road, KJ103, Longmont, CO 80503Post Office Address Same as Residence

Full name of second joint inventor, if any _____

Inventor's signature _____

Date _____ Country of Citizenship _____

Residence _____

Post Office Address _____

(use added page for signature by additional inventors)

Number of pages added: 0**B. Assignee**

(type or print name of person signing) _____

Signature _____

Date _____

P.O. Address _____

(type name of assignee) _____

Address of assignee _____

Title of person authorized to sign
on behalf of assignee _____

Assignment recorded in PTO on _____

Reel _____ Frame _____

A "CERTIFICATE UNDER 37 C.F.R. § 3.73(b)" is attached.

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome
Cited Patent or Publication—37 C.F.R. § 1.131 [9-32]—page 5 of 5)